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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

GARY STEVEN La TORRE,

Defendant and Appellant.

A100217

(Marin County

Super. Ct. No. SC121131A)

Gary S. La Torre appeals from a judgment of conviction entered upon pleas of guilty and nolo contendere. Defendant's court-appointed counsel has briefed no issues and asks this court to review the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436.

A second amended information filed in Marin County Superior Court charged defendant with: count 1 - making a false report of a bomb (Pen. Code, § 148.1, subd. (a)), count 2 - attempting to make terrorist threats (Pen. Code, §§ 422, 664), counts 3 and 4 - possession of a controlled substance (Health & Saf. Code, § 11350, subd. (a)),¹ and two misdemeanors: possession of a hypodermic needle (Bus. & Prof. Code, § 4140) in count 5 and possession of drug paraphernalia (§ 11364) in count 6.

Defendant pleaded guilty to two counts of possession of a controlled substance (§ 11350, subd. (a), counts 3 & 4 of the information) and two misdemeanors: possession

¹ All statutory references are to the Health and Safety Code unless otherwise indicated.

of a hypodermic needle (Bus. & Prof. Code, § 4140, count 5) and possession of drug paraphernalia (§ 11364, count 6).

The following day, defendant pleaded nolo contendere to making a false report of a bomb (Pen. Code, § 148.1, subd. (a)) with the understanding that the remaining count (Pen. Code, §§ 422, 664) would be dismissed.

The court selected making a false report of a bomb (Pen. Code, § 148.1, subd. (a)) as the principal term and sentenced defendant to the middle term of two years in state prison. The court sentenced defendant to a consecutive term of eight months in state prison, or one-third the middle term, for the first count (count 3 of the information) of possession of a controlled substance (§ 11350, subd. (a)) and to a concurrent middle term of two years for the second count of the same offense (§ 11350, subd. (a), count 4.). The court ordered defendant to pay an \$800 restitution fine and granted him 433 days' total presentence credit.

Before defendant pleaded guilty and nolo contendere, the court advised him of the constitutional rights he would be waiving and the direct consequences of his plea. Defendant expressly waived his constitutional rights and knowingly and voluntarily entered his pleas.

Defendant was represented by counsel throughout the proceedings.

There was no sentencing error. However, the court docket for the sentencing hearing and the abstract of judgment incorrectly state that the court imposed an eight-month concurrent sentence for count 4, the second count of possession of a controlled substance (§ 11350, subd. (a)), a term that lawfully may be imposed only when the terms are to be served consecutively. The transcript of the sentencing hearing shows that the court did impose a concurrent sentence for count 4 (§ 11350, subd. (a)) and correctly sentenced defendant to the full intended term of two years. Since this inaccuracy appears to be a simple administrative error, this court will remand the matter for the correction of the abstract of judgment to reflect the sentence actually imposed by the court.

There are no issues that require further briefing.

The judgment is affirmed. The matter is remanded for the administrative correction of the abstract of judgment to reflect the concurrent two-year term for count 4 of the information imposed by the court at sentencing.

Jones, P. J.

We concur:

Stevens, J.

Gemello, J.